



PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Shelton, R. H.

Serial No.: 09/025,279

Filed: February 18, 1998

For: **STANDING ORDER DATABASE SEARCH
SYSTEM AND METHOD FOR INTERNET
APPLICATION**

Confirmation No.:

Group Art Unit: 2162

Examiner: Jean B. Fleurantin

Docket No. 50128-1010

DECLARATION OF JOHN L. SIGALOS

I, John L. Sigalos, Esq., attorney of record in the above stated matter, hereby declare as follows:

1. My name is John L. Sigalos. I am over 21 years old, and am fully competent to make this declaration. I have personal knowledge of the matters set forth herein and know them to be true and correct.
2. I am the originating attorney for both the subject non-provisional application Serial No. 09/025,279 and the related provisional application Serial No. 60/037,869. Andrew M. Hassell, Esq. has assisted me in the prosecution of both applications.
3. Robert H. Shelton is the inventor for both the provisional application Serial No. 60/037,869 and the non-provisional application Serial No. 09/025,279.
4. In anticipation of filing the provisional application, a "Verified Statement Claiming Small Entity Status" was prepared for Mr. Shelton and sent by Express Mail for his signature. Mr. Shelton signed and returned the statement by Federal Express on February 12, 1997. A true and correct copy of the "Verified Statement Claiming Small Entity Status," signed by Mr. Shelton, is attached hereto as Exhibit A-1.
5. On February 12, 1997, I sent a cover letter with a copy of the proposed application to Mr. Hassell requesting his comments on February 14, 1997. He responded by telephone by the requested date. A true and correct copy of the cover letter requesting Mr. Hassell's

comments is attached hereto as Exhibit B-1. A true and correct copy of the UPS shipping document is attached hereto as Exhibit B-2.

6. Mr. Shelton confirmed sole inventorship by e-mail on February 14, 1997, prior to filing the provisional application. A true and correct copy of the e-mail from Mr. Shelton is attached hereto as Exhibit D.
7. On February 17, 1997, I submitted the provisional application, including the "Verified Statement Claiming Small Entity Status" signed by Mr. Shelton, by Express Mail to the U.S. Patent and Trademark Office ("USPTO") under mailing label No. EM064934589US. True and correct copies of the provisional application cover sheet, certificate of Express Mail deposit, signed "Verified Statement Claiming Small Entity Status," acknowledgement of receipt, and filing fee payment, all signed and dated February 17, 1997, are attached hereto as Exhibit E-1.
8. On the same day, I sent a letter, including a copy of the submittal, confirming filing of the provisional application. A true and correct copy of the cover letter informing Mr. Shelton is attached hereto as Exhibit E-2. At Mr. Shelton's request, the document package was sent using his Federal Express account.
9. Upon receipt of the provisional application filing receipt issuing Serial No. 60/037,869, I noted that an erroneous filing date of February 10, 1997 was issued. A true and correct copy of the acknowledgement of receipt stamped with the erroneous filing date is attached hereto as Exhibit F-1. A true and correct copy of the provisional application filing receipt with the erroneous filing date is attached hereto as Exhibit F-2.
10. On March 31, 1997, I filed a "Request for Corrected Original Application Filing Receipt" petitioning that the Provisional Application filing date be corrected from February 10, 1997 to February 17, 1997. A true and correct copy of the provisional application filing receipt with the erroneous filing date is attached hereto as Exhibit H-1. A true and correct copy of the USPTO acknowledgement of receipt is attached hereto as Exhibit H-2. While a search has been carried out, I have been unable to locate the Express Mail mailing label for the provisional application in the file.

11. At the same time, I sent a letter to Allcare with the provisional application filing receipt noting incorrect filing date of February 10, 1997 and confirming submittal of the request to correct. A true and correct copy of the letter is attached hereto as Exhibit J.
12. I received a "corrected" provisional application filing receipt indicating the correct filing day of February 17 but with an incorrect year of 1996. A true and correct copy of the "corrected" provisional application filing receipt is attached hereto as Exhibit K-1. At that time, I took this as acceptance of my request and sent an acknowledgement of the change to Mr. Shelton. A true and correct copy of the acknowledgement letter to Mr. Shelton is attached hereto as Exhibit K-2. The error in the year (1996 instead of 1997) was not noticed at that time.
13. During the next year, I continued to remind Mr. Shelton that, in order to claim priority to the provisional application, a non-provisional application must be filed no later than February 17, 1998. True and correct copies of e-mails sent to Mr. Shelton are attached hereto as Exhibits L-1 and L-2. Leading up to the filing deadline, Mr. Shelton and Mr. Hassell assisted in the preparation and review of the Non-Provisional Application.
14. On February 17, 1998, I submitted the Non-Provisional Application by Express Mail to the USPTO under mailing label No. EI229088857US. A true and correct copy of the non-provisional application cover letter, including cover letter, certificate of Express Mail deposit, unsigned "Declaration and Power of Attorney for Patent Application," and acknowledgement of receipt, all signed and dated February 17, 1998, is attached hereto as Exhibit M.
15. I personally deposited the application packet in the Express Mail collection box, located on the property of my office building at Carrillon Towers, 13601 Preston Road, Suite 402W, Dallas, Texas 75240, before the last pick up time of 5:00 p.m. on February 17, 1998.
16. As promptly as I received the Customer Copy of the Express Mail receipt from the U.S. Postal Service ("USPS") and noted the error in the post mark, I promptly contacted the USPS for a written explanation for their failure to note a pick up date of February 17, 1998. A true and correct copy of the Express Mail receipt is attached hereto as Exhibit P-2. In response to my request, the USPS sent a letter, a true and correct copy of which is

attached hereto as Exhibit P-1, acknowledging deposit of the application packet on February 17, 1998. They point out that even though a mail piece is timely placed in one of their Express Mail collection boxes, it "may not be" scanned into their system at the local post office but may be "scanned in" only when it reaches the Airport Mail Center in Dallas. They acknowledge that this is what transpired with the instant Express Mail filing.

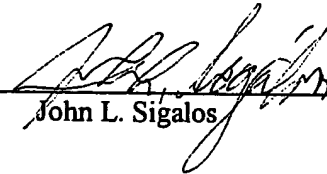
17. On June 8, 1998, I received a filing receipt issuing Serial No. 09/025,279 for the non-provisional application, noting that an erroneous filing date of February 18, 1998 was acknowledged and discovering for the first time that the filing date for provisional application Serial No. 60/037,869 was erroneously stated as February 17, 1996. True and correct copies of the acknowledgement of receipt and filing receipt are attached hereto as Exhibits Q-1 and Q-2, respectively.
18. On June 10, 1998, I timely filed a "Petition under 37 C.F.R. 1.182" to correct the filing dates of both the non-provisional application from February 18, 1997 to February 17, 1998 and the provisional application from February 17, 1996 to February 17, 1997. A true and correct copy of the petition is attached hereto as Exhibit R-1. A true and correct copy of the returned acknowledgement of receipt stamped with a date of June 16, 1998 is attached hereto as Exhibit R-2.
19. On October 7, 1999, I requested the status of the "Petition under 37 C.F.R. 1.182." True and correct copies of the "Status Request" and acknowledgement of receipt from the USPTO are attached hereto as Exhibit S-1 and Exhibit S-2, respectively.
20. On April 14, 2000, one of my daughters died of cancer after having been diagnosed in 1997. Attached hereto as Exhibit T-1 is a true copy of her death certificate. She left behind my granddaughter. During that time period, I was deeply involved as the Executor of her estate and was not able to obtain agreement as to visitation rights with my granddaughter. This necessitated filing of a suit against my former son-in-law for visitation rights with my granddaughter. True and correct copies of documents concerning probate of the Estate and petitioning the Court for visitation rights are attached hereto as Exhibits T-2 and T-3, respectively. Because of the situation, my family had become my main and over riding concern, making it very difficult for me to

focus on my work. The emotional and physical strain that I experienced during that year affected both my concentration and memory. This was attested to during a deposition taken in July 2004. A true and correct copy of selected pages from the deposition transcript relating to my experience in 2000 is attached hereto as Exhibit T-4.

21. During this time period, Mr. Shelton suggested that Mr. Hassell take over as the lead for the prosecution of the non-provisional application Serial No. 09/025,279. I agreed with this arrangement, as it would relieve some of my burden, with the exception that, since I was aware of all details surrounding the petition, I would continue to handle the petition to correct the filing dates of the provisional and non-provisional applications.
22. In June 2000, I received decisions from the USPTO to both my original "Request for Corrected Original Application Filing Receipt" sent in March 1997 and the "Petition under 37 C.F.R. 1.182" sent in June 1998. Both decisions dismissed the requests to correct the provisional and non-provisional filing dates for failure to provide evidence. A true and correct copy of the decision dismissing the 1997 petition is attached hereto as Exhibit U. A true and correct copy of the decision dismissing the 1998 petition is attached hereto as Exhibit V.
23. In my depleted mental state, I placed both responses in the application file without either logging a response due date on my Docket Log or informing either Mr. Shelton or Mr. Hassell. True and correct copies of my Docket Log for the months of May – August 2000 and the file wrapper cover are attached hereto as Exhibits W-1 and W-2, respectively. As a result of this oversight, I was not reminded to respond to these decisions.
24. In June 2005, after receiving the Notice of Allowance for the non-provisional application Serial No. 09/025,279, I began a review of my prosecution files to ensure that all outstanding issues were addressed prior to issuance of the patent. A true and correct copy of the Notice of Allowance is attached hereto as Exhibit X. It was at that time that I discovered the USPTO decisions dismissing the requests to correct the filing dates. I promptly informed Mr. Shelton and Mr. Hassell of the situation.
25. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that

these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

DATED on this the 27th day of July 2005.



John L. Sigalos